



Appeal Decision

Site visit made on 22 August 2017

by Stephen Roscoe BEng MSc CEng MICE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4th September 2017

Appeal Ref: APP/P4605/W/17/3173110

Lawnswood, 49 Bracebridge Road, Four Oaks, Sutton Coldfield B74 2SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Rebecca Wynne against the decision of Birmingham City Council.
 - The application Ref 2016/06707/PA, dated 3 August 2016, was refused by notice dated 5 October 2016.
 - The development proposed is the demolition of an existing detached house and replacement with a new single detached dwelling.
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Decision

1. I allow the appeal and grant planning permission for the demolition of an existing detached house and replacement with a new single detached dwelling at Lawnswood, 49 Bracebridge Road, Four Oaks, Sutton Coldfield B74 2SL in accordance with the terms of the application Ref 2016/06707/PA, dated 3 August 2016, and subject to the conditions listed at the end of this decision.

Procedural Matters

2. The appellant has submitted an alternative garage arrangement with the appeal documentation. The alternative garage would be of a lesser scale than that considered as part of the planning application, and it would be further from the boundaries of the appeal site. I am satisfied that my consideration of this alternative would not prejudice any interest of acknowledged importance, and I have therefore taken into account the possibility of the alternative in my decision.

Main Issues

3. The main issues in this case are:
 - i) the effect of the proposal on heritage assets; and
 - ii) whether the proposal would have a harmful effect on trees within the appeal site.

Reasons

Heritage Assets

4. The appeal site adjoins 22 Ladywood Road, known as Yates House, and includes part of its curtilage. Yates House is a Grade II listed building,

and the listing includes reference to its architectural form, design and setting. The building has been affected by a significant fire in recent years which has resulted in the loss of all of the internal structure and the roof of the building together with the majority of its elevations. There is no evidence that the fire and related damage were deliberate.

5. The north elevation of the building generally faces the appeal site. Little remains of this elevation, apart from a feature chimney. The east elevation is in a similar condition, although a tower corner feature remains between the north and east elevations. Some openings remain on the south elevation, on which a greater extent of the external wall is still standing. Approximately half of the wall of the west elevation is still in place. Overall, few openings remain in the elevations due to the extent of external walls that have collapsed.
6. As a result of this damage, the vast majority of the architectural form and design of the building has been lost. Only the chimneys remain to give an indication of the style of the building, and these have little context due to the loss of their built surroundings. The setting around the building comprises a large open plot containing rough but mown grassland. The plot is bounded by a modern fence together with, what appears to be, an original gated entrance to the property. As a result of all of the above factors, I consider that the significance of the heritage asset has been severely diminished by the fire, and the reinstatement of the building would require total rebuilding rather than repair.
7. The appeal proposal is a replacement house which would be sited in a plot which adjoins the plot in which the remains of Yates House stand. Whilst the boundary between the plots can be identified on site with the relevant plan, there are no boundary structures between the plots. The current house on the appeal site is a large detached dwelling with little architectural merit and an attached sizeable garage towards the front and side of the house which has a steeply pitched roof. The current house has the benefit of planning permission for a large extension.
8. The size of the footprint of the replacement house would be slightly larger than that of the extended existing house. Its design would reflect an arts and crafts style, in a manner similar to others that I saw in various places around the appeal site. This area has been designated as the Four Oaks Conservation Area (CA) by the Council, and this CA includes the appeal site and Yates House.
9. The existing house on the appeal site, and particularly its attached garage, obscures some views of the remains of Yates House from Bracebridge Road, leaving only the tops of the chimneys visible in the partly obscured views. The attached garage to the proposed house would be situated on the opposite side of the house to that on which the existing garage stands. The proposal would therefore improve the availability of views from Bracebridge Road, albeit to a limited extent. Moreover and importantly, the proposed house would have a more sympathetic style than the existing house in these views, in the context of the little that remains of the north elevation of Yates House that would be present in these views. The inclusion of arts and crafts features on the proposed house would also improve the legibility of the remains of Yates House. This would enhance the setting of the listed building in this regard, particularly as the majority of its arts and crafts features have been lost.

10. In some views of the east elevation of Yates House, from within its grounds and from Ladywood Road, the proposed dwelling would be visible in the background. The proposal would be similar in appearance to the extended existing house, in terms of building width and scale, at this distance. The proposal would be a little closer to Yates House but, as only the chimney features remain, the proposal would not result in any material change to the setting of Yates House as would be the case with the permitted extension.
11. A similar situation would exist in terms of the south elevation of Yates House, although views containing the proposed dwelling would be at an oblique angle. This would be the case notwithstanding that this elevation has the most openings that remain.
12. Part of the proposed curtilage for the replacement house would occupy part of the historic curtilage of Yates House. The curtilage of Yates House provides an element of its setting. There is however very little that remains of any garden that may have been associated with Yates House. The only material element of setting is the open space that the former garden provides, and this is all rough grassland.
13. The open space element of the listed building curtilage would not be affected by the proposal. Moreover, the regulation of landscaping could be the subject of conditions imposed on any permission, should the appeal be allowed. The only effect could be that future landscaping may not centre on the listed building in this part of its previous curtilage. In this regard therefore, the setting would only be affected by the change to the curtilage to a limited extent, particularly when considering what remains of the listed building.
14. I therefore consider that the proposal would have a minor harmful effect on, and would not preserve the setting of, the listed building. I give this harm slight weight due to the very limited effect, what remains of the listed building and the positive legibility provided by the proposed dwelling. I have paid special attention to the desirability of preserving the setting, and this is a matter to which I have attached considerable importance and weight. I do however consider that they would represent less than substantial harm in terms of the NPPF. This would conflict with UDP¹ saved paras 3.25 and 3.8.
15. The significance of the CA relates to the arts and crafts style of the dwellings within it and the general layout of development. This includes the depth of frontages, the spaciousness of plots and the distinctive tree lined and woodland impression of the street scenes in the area. The proposal submitted with the planning application would provide a replacement dwelling on the appeal site that would better relate to other dwellings in the CA in terms of its style, plot size and positioning within the plot. This is because it would introduce a number of arts and crafts features into the existing, and somewhat bland, residential plot. It would also increase the depth of the frontage. These factors would make development on the site more harmonious with the CA than is currently the case.
16. The proposal would however include a floor and built volume above the attached garage that would give the impression that the garage is much more than a garage and not subservient to the house which it would serve.

¹ Birmingham City Council: The Birmingham Plan: Unitary Development Plan: July 1993

This element of the proposal would not be in keeping with the character and appearance of the CA.

17. The alternative submitted with the appeal however would reduce the scale of the planning application garage, particularly towards the front of the appeal site. It thus would render the garage subservient to the house which it would serve, and the proposal would therefore be in keeping with the character and appearance of the CA.
18. With the alternative garage arrangement, the proposal would enhance the character and appearance of the CA and would accord with UDP saved para 3.27. It would also benefit the character and appearance of the CA and accord with the Council's development guidelines² paras 1.1 and 2.2. I give this public benefit moderate weight. I have paid special attention to the desirability of preserving the character and appearance of the CA, and this is a matter to which I have attached considerable importance and weight.
19. In coming to my decision, I have taken into account previous appeals APP/P4605/A/09/210262 and APP/P4605/A/14/2226763. The later of these appeals pre-dates the significant fire to which I have referred.
20. I therefore conclude that the proposal would not preserve the setting of the Grade II listed building, Yates House, although the harm would be very limited and I therefore give it slight weight. I further conclude that the proposal would enhance the character and appearance of the CA, and I give this public benefit moderate weight.

Trees

21. A number of large trees are situated within the appeal site alongside the Bracebridge Road frontage, and these are protected by a Tree Preservation Order (TPO). The existing garage, which would be demolished, is situated in close proximity to the canopy of one of these trees. I do not however consider that the demolition work proposed, if regulated under an appropriate condition, would have a harmful effect on the health of this tree.
22. Construction work in connection with the replacement house would take place at a greater distance from the tree than would be the case with the permitted extension works. Again, with the imposition of an appropriate condition, I do not consider that the construction work would have a harmful effect on the health of this tree.
23. As a consequence of these matters, and the low level of risk that would exist, I am satisfied that the tree survey submitted with the application is appropriate, notwithstanding that it is some two years old. Furthermore, an additional survey could be required by condition. I therefore consider that the proposal would protect the good environment of the city and would accord with UDP saved para 3.8. I also consider that the proposal would retain the TPO trees on the site and would accord with UDP saved paras 3.16A and 3.27.
24. I therefore conclude that the proposal would not have a harmful effect on the TPO trees and that it would thus not conflict with UDP saved paras 3.8, 3.16A and 3.27.

² Birmingham City Council: Four Oaks Estate Sutton Coldfield: Development Guidelines: May 1993

Conditions

25. I consider that conditions relating to levels, external materials, window frames, roof lights, external doors, landscaping, surfacing, boundary treatment, gates and ancillary occupation would be required to protect the character and appearance of the surrounding area. I have had full regard to the presence of TPO trees on the appeal site. From the details provided with the application, I am satisfied that the proposal would not require the felling of, or other works to, these trees. I therefore consider that a pre-commencement condition requiring a Survey and Arboricultural Implication Assessment to BS 5837, together with conditions relating to tree protection and replacement, would be sufficient to protect trees on the site.
26. Conditions in respect of visibility splays, bird and bat boxes and drainage would also be required in the interests of highway safety, biodiversity and the water environment. It would however be necessary to amend the conditions suggested by the Council in the interests of precision and enforceability. It would also be necessary that the development should be undertaken in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition would therefore be required to define the approved plans.

Conclusion

27. I have found that the proposal would not preserve the setting of Yates House, although this harm would be very limited and I therefore give it slight weight. I have also found that the proposal would not have a harmful effect on trees which are the subject of a TPO. As a consequence of my finding of less than substantial harm to the significance of the designated heritage asset, I now turn to the balance set out in para 134 of the NPPF. In relation to public benefit, I have given the enhancement to the character and appearance of the CA moderate weight, and I am of the opinion that the public benefits of the proposal would clearly outweigh the harm identified.
28. Having taken into account all other matters raised, none carry sufficient weight to alter the decision, and my conclusion is based on the evidence before me in terms of policy as a whole. For the reasons given above, I therefore conclude that the appeal should be allowed.

Stephen Roscoe

INSPECTOR

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

EX1	Existing Ground Floor Plans
EX2	Existing First Floor Plans
EX3	Existing Elevations
EX4	Existing Elevations
CS.101	Proposed Site Plan
CS.102-A1	Replacement Dwelling: Floor Plans, Alternate Garage
CS.103-A1	Replacement Dwelling: Elevations, Alternate Garage
SS.104	Street Scene Comparisons: Bracebridge Road
SS.106	Site Plan Comparisons
- 3) Notwithstanding condition 2, no development shall take place until details of finished site and ground floor levels in relation to the existing site levels, adjoining land and buildings have been submitted to, and approved in writing by, the local planning authority. The details shall include the proposed grading and mounding of land areas, cross sections through the site and the relationship with the adjoining landform and buildings. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding condition 2, no development shall take place until a scheme for the drainage of the site has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved scheme which shall be thereafter retained.
- 5) Notwithstanding condition 2, no development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved samples.
- 6) Notwithstanding condition 2, no development shall take place until detailed drawings of the proposed window frames, at a minimum scale of 1:10 illustrating materials and coverings, paint finish, fenestration profiles, lintels, cills, window dressings, cheeks, reveals and window furniture have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved drawings, and the details shall be thereafter retained.
- 7) Notwithstanding condition 2, no development shall take place until details of the type and size of the proposed conservation roof lights have been submitted to, and approved in writing by, the local planning authority. The roof lights shall be of a design which, when installed, shall not project forward of the general roof surface and shall have a surround of a dark and matt finish. Development shall be carried out in accordance with the approved details which shall be thereafter retained.

- 8) Notwithstanding condition 2, no development shall take place until details of all new external doors including cross sections to show materials, paint finish, panels, cills, decorative detail, reveals and door furniture have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details which shall be thereafter retained.
- 9) Notwithstanding condition 2, no development shall commence until details of both hard and soft landscape works have been submitted to, and approved in writing by, the local planning authority. These details shall include: proposed finished levels or contours; means of enclosure; hard surfacing materials; minor artefact and structures; proposed and existing functional services above and below ground; and fully annotated planting plans to a scale of 1:50 showing, where used, locations of individually planted trees, areas of woodland, shrubs, hedges, bulbs, and areas of grass. Within ornamental planting areas, plans should be sufficiently detailed to show the locations of different single species groups in relation to one another and the locations of any individual specimen shrubs. The details shall also include planting schedules, noting species, plant sizes and proposed numbers/densities and details of the proposed planting programme.
- 10) All hard and soft landscape works shall be implemented in accordance with the approved details. The works shall be implemented prior to the occupation of any part of the development or in accordance with the planting programme agreed with the local planning authority and thereafter maintained. Any trees or shrubs which, within a period of two years from the completion of the development, die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species.
- 11) Notwithstanding condition 2, no development shall take place until details of the materials to be used for hard and paved surfacing have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details, and the materials shall be thereafter retained.
- 12) Notwithstanding condition 2, no development shall take place until details of the proposed boundary treatments for the site have been submitted to, and approved in writing by, the local planning authority. These details shall include plans showing the locations of existing, retained and proposed boundary treatments and scaled drawings indicating the positions, height, design, materials, type and colour of the proposed boundary treatments. The approved details shall be implemented before the occupation of any part of the buildings hereby permitted, and the boundary treatment shall be thereafter retained.
- 13) Notwithstanding condition 2, no development shall take place until details of the number, design, location and post development monitoring arrangements of bird nesting and bat boxes to be provided as part of the development have been submitted to, and approved in writing by, the local planning authority. The bird and bat boxes shall be installed in accordance with the approved details before the occupation of any part of the buildings hereby permitted and the boxes shall be thereafter retained.
- 14) No gates shall be installed to the means of access hereby permitted.

- 15) Any part of the building hereby permitted shall not be occupied before a vehicular visibility splay of 2.4m by 60m and a pedestrian visibility splay of 3.3m by 3.3m at the junction of the access with the public highway has been provided. No structure shall be placed or shrubs, trees or other vegetation shall be allowed to grow above 0.6m in height within these visibility splays which shall be thereafter retained.
- 16) The accommodation hereby permitted, including the roof space and garage, shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling at 49 Bracebridge Road.
- 17) Notwithstanding condition 2, no development shall take place until a full up to date tree survey, arboricultural implications assessment and recommendations, taking account of all the trees on the site and on adjoining land including public highway and undertaken in accordance with BS5837 'Trees in Relation to Design, Demolition and Construction - Recommendations' (BS5837:2012 and any subsequent edition), has been submitted to, and approved in writing by, the local planning authority. The development shall be implemented in accordance with the approved details.
- 18) Within 1 metre of the furthest extent of the canopy of any tree or group of trees to be retained on the site or adjoining land there shall be no: concrete mixing; storage of oil, cement, bitumen or chemicals; trenches or pipe runs for services or drains; or alteration of surfaces or ground levels. These measures shall apply for the duration of the construction phase and until all construction equipment, machinery and surplus materials have been removed from the site.
- 19) Any trees removed as part of the development hereby permitted shall be replaced. Details of species, planting stock size and exact location of replacement trees shall be submitted to, and agreed in writing by, the local planning authority prior to the felling of the trees. The replacement trees shall be maintained for a period of 5 years. Replacement trees shall be planted in the next planting season following the felling of the trees. If the replacement trees are destroyed, die or are removed within two years of the date of planting, trees of the same size and species shall be planted at the same place during the next available planting season unless the local planning authority gives written consent to any variation.
